

EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMERICAN CIVIL LIBERTIES UNION,)
et al.,)
Plaintiffs)
v.) Civil Action No.
ALBERTO R. GONZALES, in his official) 98-CV-5591
capacity as Attorney General of)
the United States.)
Defendant.)

DECLARATION OF ELIZABETH KADE

I, Elizabeth Kade, hereby state and declare as follows:

1. My name is Elizabeth Kade. I am over 18 years of age. I am fully competent to make this Declaration and I have personal knowledge of the facts stated in this Declaration. To my knowledge, all of the facts stated in this Declaration are true and correct.
2. I am a Paralegal Specialist for the United States Department of Justice, Federal Programs Branch. I make this Declaration in support of the Motion to Dismiss and, in the Alternative, for Partial Judgment on the Pleadings.
3. On August 25, 2006, I accessed the websites of Femmerotic, Bill Boushka, Free Speech Media, Philadelphia Gay News, and Powell's Bookstores.
4. The Femmerotic website did not have a search function or a link to a "Gallery" section on its main page. The website did have a link to a "Photography" section. The website's main page also had no link to a "FAQ" section, and the "Prose and Poetry," "Biography," and "Join" sections did not have FAQ pages. I did find a "FAQ" page on in the "Journal" section, and the

"Photography" section had an "About the site and work" page, neither of which contained sexually explicit material.

5. I could not find Bill Boushka's website identified in the Amended Complaint, High Productivity Publishing, through the Google search engine. I did find two pages on his current website, www.doaskdotell.com, that state the High Productivity Publishing website was discontinued July 30, 2005.

6. The first link in Bill Boushka's interrogatory responses for "The Sub" screenplay led to a web page stating that the screenplay was only displayed on the website between March 2005 and April 28, 2006. The page retained a list of main ideas contained in the screenplay. The second link in Bill Boushka's interrogatory responses for "The Sub" screenplay led to a PDF document which also stated the screenplay is no longer available. I could only find a link to a PDF of the "Baptism" screenplay on Bill Boushka's current website's "Experimental Screenplays" page; I could not find a treatment of the "Baptism" screenplay.

7. The Free Speech Media website did not have a general search function; it had only a video search function. I could not find the audio clip of Larry Kramer, either part of AIDS Community Television's video "Oral Sex and HIV Transmission," or Frank Moore's video "Chero Colage: What is Eroplay" via the video search function. I also could not find them through the site map, in the Featured Videos section, the TV Series section, the Special Programs section, or the Special Reports section.

8. I could not find either part of the "Women of Vision" video or the "Super Natural Premiere" video on the Free Speech Media website by typing in the links given in their interrogatory responses. I also could not find them via the video search function, through the site

map, or in the Featured Videos section, the TV Series section, the Special Programs section, or the Special Reports section.

9. The Philadelphia Gay News website did not have a search function, and I could not find either the "Chat Rooms" page or the "Philly Encounters" page by following the links given in their interrogatory responses. Neither page could be found from the main PGN website or through its Classifieds, Phone Personals, or Adult Classifieds pages.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on : August 25 , 2006

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